



Entered on Docket
December 10, 2009

Hon. Bruce A. Markell
United States Bankruptcy Judge

GREGORY L. WILDE, ESQ.
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Lodged on

Attorney for Secured Creditor

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:

Magellan Aquino

Debtors.

BK-S-09-16221-bam

Date: October 20, 2009
Time: 1:30 AM

Chapter 13

**ORDER DENYING MOTION FOR RELIEF FROM THE
AUTOMATIC STAY**

THE COURT having reviewed the briefs filed by the respective parties, having considered the oral argument, and having reviewed all other pleadings before it, rules as follows:

1 The Secured Creditor has not provided evidence to the court of a diminution in property value
 2 pursuant to the In Re: Timbers case, warranting on Order Vacating Stay.

3 The Secured Creditor has not convinced the court that a proposed monthly payment of ".25" of the
 4 value of the subject property does not cover any diminution in value while waiting for a decision on a loan
 5 modification request.

6 The Secured Creditor has not convinced the court that a monthly payment of ".25" of the subject
 7 property's value necessarily denotes an improbability of successful reorganization inasmuch as the decision
 8 of whether or not a loan modification is granted is in the hands of the Secured Creditor.

9 The Court further holds that a plan that proposes to pay a monthly payment of ".25" of the subject
 10 property's value is not on its face a plan proposed in violation of 11 U.S.C. 1322(b)(2).

11 Other findings made by the Court are found on the record and incorporated herein.

12 THEREFORE, the Secured Creditor's motion for relief from the automatic stay is denied without
 13 prejudice.

14 DATED this 9th day of December, 2009.

15 Submitted by:
 16 WILDE & ASSOCIATES

17 By /S/GREGORY L. WILDE
 18 GREGORY L. WILDE, ESQ.
 19 Attorney for Secured Creditor
 20 208 South Jones Boulevard
 21 Las Vegas, Nevada 89107

22 APPROVED / DISAPPROVED

23 APPROVED / DISAPPROVED

24 By _____
 25 Christopher Griffin
 26 Haines and Krieger
 27 Attorney for Debtor(s)

28 By _____
 29 Kathleen A. Leavitt
 30 Trustee

1 ALTERNATIVE METHOD RE: LOCAL RULE 9021:

2 In accordance with Local Rule 9021, the undersigned counsel certifies as follows (check one):

3 The court waived the requirements of LR 9021.4 No parties appeared or filed written objections, and there is no trustee appointed in the case.5 I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any
6 unrepresented parties who appeared at the hearing, and any trustee appointed in this case,
7 and each has approved or disapproved the order, or failed to respond, as indicated below
8 (list each party and whether the party has approved, disapproved, or failed to respond to the
9 document):

10 (List Parties)

11 Debtor's counsel:

12 approved the form of this order disapproved the form of this order13 waived the right to review the order and/or failed to respond to the document14 appeared at the hearing, waived the right to review the order15 matter unopposed, did not appear at the hearing, waived the right to review the order

16 Trustee:

17 approved the form of this order disapproved the form of this order18 waived the right to review the order and/or failed to respond to the document

19 Other Party:

20 approved the form of this order disapproved the form of this order21 waived the right to review the order and/or failed to respond to the document

22 Breach Order:

23 This is an Order Vacating the Stay after the Failure to cure a Declaration of Breach. Copies of
24 this proposed order were transmitted to Debtor's counsel and appointed trustee to which
25 they have not replied

26 Submitted by:

/s/ Gregory L. Wilde, Esq.

Gregory L. Wilde, Esq.

Attorney for Secured Creditor

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(list each party and whether the party has approved, disapproved, or failed to respond to the
document):

7 (List Parties)

8 Debtor's counsel:

9 approved the form of this order disapproved the form of this order

10 waived the right to review the order and/or failed to respond to the document

11 appeared at the hearing, waived the right to review the order

12 matter unopposed, did not appear at the hearing, waived the right to review the order

13 Trustee:

14 approved the form of this order disapproved the form of this order

15 waived the right to review the order and/or failed to respond to the document

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24 Submitted by:

25 /s/ Gregory L. Wilde, Esq.

26 Gregory L. Wilde, Esq.

Attorney for Secured Creditor